

United States Court of Appeals  
Fifth Circuit

**FILED**

April 8, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

United States District Court  
Southern District of Texas  
FILED

No. 02-41062  
Summary Calendar

MAY 02 2003

Michael N. Milby  
Clerk of Court

In Re: In the Matter of the Complaint of BROWN WATER TOWING I, INC., As Owner and BROWN WATER MARINE SERVICE, INC., as Bareboat Charters, of the Brown Water V, Its Engines, Tackle, Etc.; AMERICAN COMMERCIAL LINES, LLC, As Owner and AMERICAN COMMERCIAL BARGE LINES, LLC, As Charterer, of the Barges NM-315, VLB-9182, ACL-9933B, VLB-9173, for Exoneration from Limitation of Liability

ROBERT A. FANDRICH; ET AL,

Plaintiffs,

202 BAYSIDE BAR & GRILL; A-1 TAXI;  
A-1 LIMOUSINE; AMBERJACK'S BAR &  
GRILL, INC.; CHARLIE ARMENDARIZ; ET AL,

Plaintiffs-Appellants,

versus

BROWN WATER TOWING I, INC.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
(B-02-CV-115)  
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Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Plaintiffs-Appellants comprise those plaintiffs in the subject case who complain of purely economic damages resulting from the allision of the vessels of Defendants-Appellees with a causeway linking Padre Island, Texas to the mainland. These Plaintiffs-Appellants ("Economic Damage Claimants") appeal the district court's grant of a motion for summary judgment filed by Defendants-Appellees ("Brown Water"), dismissing the claims of Economic Damage Claimants with prejudice. Applying our well-known de novo standard of review of a district court's grant of summary judgment, we affirm.

Having carefully reviewed the record on appeal, the appellate briefs of counsel, the Order of the district court granting summary judgment, and the law applicable to the undisputed facts of this case, we are satisfied that the Economic Damage Claimants cannot maintain an action for economic damages to their businesses on South Padre Island allegedly resulting from the partial collapse of the subject causeway following the allision. The assertions of the Economic Damage Claimants regarding the controlling effect of state law to the contrary notwithstanding, our precedent is firmly to the effect that parties who suffer non-contact, purely economic damages, resulting from an unintentional maritime tort like the one here at issue, cannot recover in the absence of physical damage to the property in which the claimants have an ownership interest. See Robins Drydock & Repair Co. v. Flint, 275 U.S. 303, 48 S. Ct.

134 (1927); Louisiana Ex-Rel. Guste v. M/V TESTBANK, 752 F.2d 1019 (5th Cir. 1985) (en banc).

For essentially the same reasons set forth by the district court in its comprehensive Order, the grant of summary judgment dismissing with prejudice all claims of the Economic Damage Claimants is

AFFIRMED.

**United States Court of Appeals**

FIFTH CIRCUIT  
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III  
CLERK

TEL. 504-310-7700  
600 CAMP STREET  
NEW ORLEANS, LA 70130

April 30, 2003

Mr Michael N Milby, Clerk  
Southern District of Texas, Brownsville  
United States District Court  
Room 1158  
600 E Harrison Street  
Brownsville, TX 78520

No. 02-41062 Fandrich v. Brown Water Towing I  
USDC No. B-02-CV-115  
B-02-CV-115

Enclosed, for the district court only, is a certified copy of the judgment issued as the mandate.

Enclosed, for the district court only, is a copy of the court's opinion.

Record/original papers/exhibits are returned:

( 2 ) Volumes ( ) Envelopes ( ) Boxes

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By:   
Dawn D. Victoriano, Deputy Clerk

cc: (letter only)  
Honorable Hilda G Tagle  
Mr Douglas W Alexander  
Mr William W Pierson  
Mr Keith Neill Uhles  
Mr Jon Daniel Brooks

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